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6 **UNITED STATES DISTRICT COURT**  
7 **EASTERN DISTRICT OF CALIFORNIA**  
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9 **MICHAEL ALVAREZ,**

10 **Petitioner,**

11 **v.**

12 **UNITED STATES OF AMERICA,**

13 **Respondent.**  
14

**CASE NO. 1:03-CR-5014 AWI**  
**(Civil Case No. 1:16-CV-0918 AWI)**

**ORDER STAYING CASE**

15 This is a petition for relief from sentence under 28 U.S.C. § 2255.

16 Petitioner, through his counsel, seeks relief based on the recent Supreme Court decisions in  
17 *Johnson v. United States*, 135 S.Ct. 2551 (2015) and *Welch v. United States*, 136 S.Ct. 1257  
18 (2016). Recently, the Ninth Circuit has given other petitioners in this Court a certification under  
19 28 U.S.C. § 2255(h) to pursue a second or successive § 2255 petition based on *Johnson* and *Welch*  
20 issues. See Howard v. United States, E.D. Cal. Docket No. 1:04-CR-5234 AWI at Doc. No. 310;  
21 Hughes v. United States, E.D. Cal. Docket No. 1:02-CR-5370 AWI at Doc. No. 114; Burton v.  
22 United States, E.D. Cal. Docket No. 1:02-CR-5187 AWI at Doc. No. 80. As part of the  
23 certifications in these cases, the Ninth Circuit suggested that this Court stay the matters pending  
24 the Ninth Circuit's resolution of *Gardner v. United States* (Appeal No. 15-72559), *Jacob v. United*  
25 *States* (Appeal No. 15-73302), and/or *United States v. Begay* (Appeal No. 14-10080). See  
26 Howard at Doc. No. 310; Hughes at Doc. No. 114; Burton at Doc. No. 80. In each of these cases,  
27 the Court followed the Ninth Circuit's suggestion and issued stays. See Howard at Doc. No. 312;  
28 Hughes at Doc. No. 116; Burton at Doc. No. 82.

1 In light of the stays in these three cases at the Ninth Circuit's suggestion, the Court finds  
2 that it is prudent to stay this matter as well. Out of caution, the Court will stay this matter  
3 pending resolution of *Gardner v. United States* (Appeal No. 15-72559), *Jacob v. United States*  
4 (*Appeal No. 15-73302*), and *United States v. Begay* (Appeal No. 14-10080). If, at any time prior  
5 to a decision in all three of these cases, Petitioner's counsel believes that the stay should be lifted,  
6 counsel may file a properly supported motion to lift the stay.

7  
8 **ORDER**

9 Accordingly, IT IS HEREBY ORDERED that this case is stayed pending resolution of the  
10 Ninth Circuit Court of Appeals of *Gardner v. United States* (Appeal No. 15-72559), *Jacob v.*  
11 *United States* (Appeal No. 15-73302), and *United States v. Begay* (Appeal No. 14-10080).<sup>1</sup>

12 IT IS SO ORDERED.

13 Dated: July 6, 2016

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15 SENIOR DISTRICT JUDGE  
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28 <sup>1</sup> Again, if Petitioner's counsel believes that the stay should be lifted prior to a decision by the Ninth Circuit in all three of the identified cases, then counsel may file a properly supported motion to lift the stay.